

§ 935.66 Clerk of the Court of Appeals.

There is a Clerk of the Court of Appeals, who is appointed by the Chief Judge. The Clerk maintains a public docket containing such information as the Chief Judge may prescribe, and performs such other duties as the Court directs.

§ 935.67 Jurisdiction of the Court of Appeals.

The Court of Appeals has jurisdiction over all appeals from the Wake Island Court. Decisions of the Court are final.

§ 935.68 Qualifications.

(a) No person may be appointed a judge, Island Attorney or Public Defender under this part who is not a member of the bar of a State, District, or Territory.

(b) Civilian officers and employees of the Department of the Air Force may be appointed as a judge, Island Attorney, Public Defender, or Clerk, to serve without additional compensation.

Subpart H—Statute of Limitations

§ 935.70 Limitation of actions.

(a) No civil action may be filed more than 1 year after the cause of action arose.

(b) No person is liable to be tried under this Code for any offense if the offense was committed more than 1 year before the date the information or citation is filed with the Clerk of the Wake Island Court.

Subpart I—Subpoenas, Wake Island Court

§ 935.80 Subpoenas.

(a) The Clerk of the Court shall issue subpoenas for the attendance of witnesses. The subpoena must include the name of the Court and the title, if any, of the proceeding; and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The Clerk shall issue a subpoena to a party requesting it, setting forth the name of the witness subpoenaed.

(b) The Clerk may also issue a subpoena commanding the person to whom it is directed to produce the books, pa-

pers, documents, or other objects designated therein. The Court may direct that books, papers, and documents designated in the subpoena be produced before the Court at a time before the trial or before the time when they are to be offered in evidence. It may, upon their production, allow the books, papers, documents, or objects or portions thereof to be inspected by the parties and their representatives.

(c) Any Peace Officer or any other person who is not a party and who is at least 18 years of age may serve a subpoena. Service of a subpoena shall be made by delivering a copy thereof to the person named.

(d) The Clerk of the Court shall assess and collect a witness fee of \$3 for each subpoena requested by any party other than the United States, which shall be tendered to the witness as his witness fee together with service of the subpoena. Witnesses subpoenaed by the Island Attorney shall be entitled to a fee of \$3 upon presentment of a proper claim therefor on the United States. No duly summoned witness may refuse, decline, or fail to appear or disobey a subpoena on the ground that the witness fee was not tendered or received.

(e) Upon a showing that the evidence is necessary to meet the ends of justice and that the defendant is indigent, the Public Defender may request the Court to direct the Island Attorney to obtain the issuance of a subpoena on behalf of a defendant in a criminal case. Witnesses so called on behalf of the defendant shall be entitled to the same witness fees as witnesses requested by the Island Attorney.

(f) Subpoenas may be credited only to persons or things on Wake Island.

[37 FR 12384, June 23, 1972; 37 FR 13175, July 4, 1972]

Subpart J—Rules of Civil Procedure

§ 935.90 General.

(a) The Federal Rules of Civil Procedure apply to civil actions in the Court to the extent the Presiding Judge considers applicable under the circumstances.

(b) There is one form of action called the "Civil Action."

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(c) Except as otherwise provided in this part, there is not trial by jury.

(d) A civil action begins with the filing of a complaint with the Court. The form of the complaint is as follows except as it may be modified to conform as appropriate to the particular action:

In the Wake Island Court

Civil Action No. _____

(Plaintiff)

vs.

Complaints

(Defendant)

_____ plaintiff alleges that the defendant is indebted to plaintiff in the sum of \$_____; that plaintiff has demanded payment of said sum; that defendant has refused to pay; that defendant resides at _____ on Wake Island; that plaintiff resides at _____.

(Plaintiff) _____

§ 935.91 Summons.

Upon the filing of a complaint, a Judge or Clerk of the Court shall issue a summons in the following form and deliver it for service to a peace officer or other person specifically designated by the Court to serve it:

In the Wake Island Court

Civil Action No. _____

(Plaintiff)

vs.

Summons

(Defendant)

To the above-named defendant:

You are hereby directed to appear and answer the attached cause at _____ on _____ day of _____, 19—, at — p.m. and to have with you all books, papers, and witnesses needed by you to establish any defense you have to said claim.

You are further notified that in case you do not appear, judgment will be given against you, for the amount of said claim, together with cost of this suit and the service of this order.

Dated: _____, 19—.

(Clerk, Wake Island Court) _____

§ 935.92 Service of complaint.

(a) A peace officer or other person designated by the Court to make service shall serve the summons and a copy of the complaint at Wake Island upon the defendant personally, or by leaving

them at his usual place of abode with any adult residing or employed there.

(b) In the case of a corporation, partnership, joint stock company, trading association, or other unincorporated association, service may be made at Wake Island by delivering a copy of the summons and complaint to any of its officers, a managing or general agent, or any other agent authorized by appointment or by law to receive service.

§ 935.93 Delivery of summons to plaintiff.

The Clerk of the Court shall promptly provide a copy of the summons to the plaintiff, together with notice that if the plaintiff fails to appear at the Court at the time set for the trial, the case will be dismissed. The trial shall be set at a date that will allow each party at least 7 days, after the pleadings are closed, to prepare.

§ 935.94 Answer.

(a) The defendant may, at his election, file an answer to the complaint.

(b) The defendant may file a counterclaim, setoff, or any reasonable affirmative defense.

(c) If the defendant elects to file a counterclaim, setoff, or affirmative defense, the Court shall promptly send a copy of it to the plaintiff and shall allow him enough time to prepare his position with regard thereto.

§ 935.95 Proceedings; record; judgment.

(a) The presiding Judge is responsible for the making of an appropriate record of each civil action.

(b) All persons shall give their testimony under oath or affirmation. The Senior Judge shall prescribe the oath and affirmation that may be administered by any Judge or the Clerk of the Court.

(c) Each party may present witnesses and other forms of evidence. In addition, the presiding Judge may informally investigate any controversy, in or out of the Court, if the evidence obtained as a result is adequately disclosed to all parties. Witnesses, books, papers, documents, or other objects may be subpoenaed as provided in § 935.80 for criminal cases.